

LICENSURE OF DAY CARE FACILITIES

Subchapter 2

Public Health Requirements for Day Care Centers

ARM 37.95.201, 37.95.220, 37.95.221, 37.95.230, 37.95.231, 37.95.232, 37.95.235 and 37.95.240 are repealed

37.95.205 SOLID WASTE (1) In order to ensure that solid waste is safely stored and disposed of, a day care center must:

(a) store all solid waste between collections in containers which have lids and are corrosion resistant, fly-tight, watertight, and rodent-proof;

(b) clean all solid waste containers frequently;

(c) utilize exterior collection stands for the containers referred to in (a) above which prevent the containers from being tipped, protect them from deterioration, and allow easy cleaning below and around them;

(d) transport or utilize a private or municipal hauler to transport the solid waste at least weekly to a solid waste facility approved by the department in a covered vehicle or covered containers. (History: Sec. 52-2-735 and 53-4-406, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1116, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.206 LAUNDRY (1) In order to ensure that soiled laundry does not endanger the health of children, a day care center must:

(a) refrain from storing soiled laundry in a dining, food preparation, or food storage room, and ensure that such soiled laundry is not accessible to children;

(b) provide sufficient space for sorting and storing clean and soiled laundry so that clean and soiled laundry do not contact the same surface or each other;

(c) machine wash all laundry at a minimum initial water temperature of 140°F and a minimum time of 8 minutes, and dry all laundry in a hot air tumble dryer vented to the outside of the building;

(d) in regard to bedding:

(i) launder bedding whenever it is soiled and air it out periodically to prevent mildew; and

37.95.207 GENERAL HOUSEKEEPING (1) As general housekeeping measures, a day care center must ensure that:

(a) its building and grounds are free, to the extent possible, of harborage for insects, rodents, and other vermin;

(b) its floors, walls, ceilings, furnishings, and other equipment are easily cleanable and are kept clean;

(c) soap and disposable towels or other hand-drying devices are always available at all hand washing sinks. Common-use cloth towels are prohibited;

(d) toilet tissue is provided next to all toilets;

(e) the temperature is maintained at a minimum of 65°F in the areas used for day care;

(f) at the end of each week of use, or more frequently as needed, toys are cleaned and sanitized in a solution containing 100 ppm available chlorine (1/4 cup household bleach to 1 gallon of water) or a comparable sanitizing solution, air dried after sanitizing, rinsed with clean water after the first air drying step, and air dried again;

(g) hand sinks and bathing facilities are provided with water at a temperature of at least 100°F and not more than 120°F;

(h) cleaners used in cleaning bathtubs, showers, sinks, urinals, toilet bowls, toilet seats and floors, contain fungicide or germicide;

(i) cleaning devices for toilets, sinks, and tubs are kept separate from each other, and cleaning devices used on toilet bowls, toilet seats, or urinals, are not used for any other purpose and are kept out of the reach of children;

(j) dry dust mops and dry dust cloths are not used; and

(k) cleaning compounds and pesticides are stored separately and out of the reach of children, used, and disposed of in accordance with the manufacturer's instructions. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1116, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.210 SPECIAL REQUIREMENTS FOR CHILDREN REQUIRING CRIBS OR DIAPERS (1) If a day care center cares for children requiring cribs or diapers, it must:

(a) ensure that cribs, playpens, and toys used by those children are made of washable, nontoxic materials and are kept clean and sanitized with a solution containing at least 100 ppm chlorine (1/4 cup household bleach to 1 gallon water) or equivalent sanitizing solution, air dried, rinsed with clean water after the first air drying step, and air dried again. This must be done

(ii) after each diapering, thoroughly clean and sanitize the diapering area, using a solution of at least 100 ppm chlorine (1/4 cup household bleach to 1 gallon water) or an equivalent sanitizing solution, air dry, rinse with clean water after the first air drying step, and air dry the area again;

(iii) store soiled diapers in easily cleanable or lined receptacles with tight-fitting lids in an area inaccessible to children; and empty, clean, and wash the receptacles once per day or more often as needed;

(iv) refrain from dipping soiled diapers in a toilet, although fecal contents of diapers may be shaken into a toilet;

(v) ensure that all staff members who diaper children wash their hands immediately after each diapering following the procedures outlined in ARM 37.95.221(7)(c). The hands of the diapered infant must also be washed; and

(vi) equip diapering and toilet areas with a hand washing sink that is separated by at least 6 feet from the infant food preparation area, hand washing sink, and equipment used for food preparation, except if the provider submits to the local health authority a written plan which describes an alternative means that does not have the potential to cause adverse health effects.

(e) request parents to provide a supply of clean clothes adequate to allow at least one change per day and adequate diapers for a day's use;

(f) allow the use of non-disposable diapers. If non-disposable diapers are used, they must be handled in accordance with the following, in addition to the requirements of (d):

(i) Soiled diapers for each child must be placed in a plastic sack designated for that child, which in turn must be placed in a non-permeable, covered container and either picked up by a diaper service or commercial laundry or sent home the same day with the parent in the plastic sack;

(ii) Soiled diapers must either be laundered by a commercial laundry or diaper service, or at another site removed from the day care facility;

(iii) If a diaper service or commercial laundry is used, soiled diapers must be picked up by the service or laundry at least twice weekly; and

(iv) Soiled cloth diapers may not be rinsed on site.
(History: Sec. 52-2-735, MCA; IMP, Sec. 52-2-735, MCA; NEW, 1982 MAR p. 1117, Eff. 5/28/82; AMD, 1992 MAR p. 444, Eff. 3/13/92; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES; 1998 MAR p. 2881; AMD, 2000 MAR p. 2415, Eff. 9/8/00.)

(2) A day care center must comply with all requirements set for food service establishments in ARM Title 16, chapter 10, subchapter 2, with the following exceptions from the rules noted below.

(3) A domestic style dishwasher may only be used if it is equipped with a heating element and the following conditions are met:

(a) The dishwasher:

(i) is capable of washing and sanitizing all dishware, utensils and food service equipment normally used for the preparation and service of a meal in one cycle;

(ii) must have water at a temperature of at least 165°F when it enters the machine, if it uses hot water for sanitization;

(iii) if it uses a heat cycle with a heating element for sanitization, must be allowed to run through the entire cycle before it is opened;

(b) At least a 2-compartment sink is provided as a backup facility in the event the dishwasher becomes inoperable; and

(c) If the 2-compartment sink is used, all dishware, utensils, and food service equipment are thoroughly cleaned in the first sink compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label, and sanitized in the second compartment by immersion in any chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 ppm of available chlorine at a temperature of at least 75°F for one minute, and air-drying before being stored.

(4) ARM 16.10.220 and 16.10.221 do not apply to a day care center. Instead, a day care center must provide lavatories, water closets, and urinals in the ratio of the number of each to the number of individuals using them noted below, taking into account children, staff, and volunteers:

Water Closets

Urinals

Lavatories

Male Female
1:20 1:20

If over 20 males,
may substitute 1/2
the number of
toilets required.

1:60

May combine male and
female unless fixture
requirement exceeds 2.

(5) ARM 16.10.232(2) through (6) do not apply to a day care center. The food preparation area may be used as a family kitchen.

(9) Potentially hazardous foods must be maintained at an internal temperature under 45°F or over 140°F. A food (stem) thermometer must be available to measure these temperatures.

(10) Food that has been in family-style service containers, on the table, or in the service area must be disposed of after the meal.

(11) Ground beef must be cooked to a minimum internal temperature of 155°F and have clear juices and a uniform brown color with no pink.

(12) The department hereby adopts and incorporates by reference ARM Title 16, chapter 10, subchapter 2, which sets forth requirements for food service establishments. Copies of these rules may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Bureau, P.O. Box 202951, Helena, MT 59620-2951. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1117, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.215 NUTRITION (1) The department hereby adopts and incorporates by reference 7 CFR 226.19 and 226.20, containing meal requirements for day care facilities participating in the child and adult care food program of the US department of agriculture, food and nutrition service. A copy of 7 CFR 226.19 and 226.20 may be obtained from the department's nutrition consultant, Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Bureau, P.O. Box 202951, Helena, MT 59620-2951.

(2) Each day care center must do the following, with the exception noted in (4) below:

(a) serve meals and snacks which meet the requirements for meals contained in 7 CFR 226.19 and 226.20, including the following:

(i) Breakfast for children who are between 1 and 12 years old must include 1 serving of fruit, vegetable, or 100% fruit or vegetable juice; 1 serving of enriched bread or bread alternate; and 1 serving of fluid milk;

(ii) Lunch and supper for children who are between 1 and 12 years old must include one serving of meat or meat alternate; 2 vegetables or 2 fruits or 1 vegetable and 1 fruit; 1 serving of bread or bread alternate; and 1 serving of fluid milk;

(iii) Snacks for children who are between 1 and 12 years old must include 2 of the following 4 food components: meat or meat alternate, fruit or vegetable or 100% fruit or vegetable juice,

(iii) breakfast, before 9:00 am, or supper if a child is being cared for in the center at the normal time for those meals and has not otherwise received them.

(c) ensure that each bottle-fed infant from newborn to 1 year of age is held upright during bottle feedings until the child is able to hold the bottle, and that bottles are not propped;

(d) for each child with nutritional therapeutic needs, request and carefully follow special dietary instructions, in writing, from either the child's parent or guardian, or a physician or registered dietitian, if the parent/guardian fails to or cannot provide such instructions. Food brought from home for special dietary purposes must be carefully labeled with the child's name;

(e) plan menus at least 2 weeks in advance, date and post the menus where parents/guardians can see them, and serve meals and snacks in accordance with the posted menus, with the exception that a menu change may be made so long as it is posted before parents arrive to check in children on the date of service;

(f) provide supervision to children while they eat and assist the children to eat, if necessary;

(g) offer drinking water at regular intervals to infants and toddlers and ensure that drinking water is freely available to all children; and

(h) keep on file at the day care center written menu records and special dietary instructions for infants and children for 1 year following the date of the meal service.

(3) If a day care center does not participate in the department's child care food program, the center must do the following in addition to meeting the requirements contained in (2) above:

(a) obtain guidance materials from the department about child care food program meal requirements and adhere to the recommendations therein; and

(b) within 1 year after it begins operation, and once annually thereafter, ensure that a registered dietitian evaluates the nutritional adequacy of its meals and their compliance with this rule, and that the dietitian makes a written report, to be retained on file at the day care center, containing the following information, with a copy to the department:

(i) findings and recommendations pertaining to the nutritional adequacy of food served to the children;

(ii) an assessment of management of meals, and any infant or therapeutic diets;

(iii) date of the evaluation;

(iv) evaluator's signature and dietitian registration number.

(c) at least annually, provide each parent who has ever sent food to the center for consumption by a child a copy of the meal requirements referred to in (2)(a) above. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1119, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.225 WATER SUPPLY SYSTEM (1) The department hereby adopts and incorporates by reference ARM 17.38.207, stating maximum microbiological contaminant levels for public water supplies, and the following department publications setting construction, operation, and maintenance standards for springs (surface water) and wells:

(a) Circular WQB-1 "Montana Department of Health and Environmental Sciences Standards for Water Works," 1992 edition; and

(b) Circular WQB-3 "Montana Department of Health and Environmental Sciences Standards for Small Water Systems," 1992 edition.

(c) Copies of ARM 17.38.207 and Circulars WQB-1 and WQB-3 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Bureau, P.O. Box 202951, Helena, MT 59620-2951.

(2) In order to ensure an adequate and potable supply of water, a day care center must either:

(a) connect to a water supply system meeting the requirements of ARM Title 17, chapter 38, subchapters 2, 3, and 4; or

(b) if the day care center is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including children, staff, and residents; and an adequate public water supply system is not accessible; utilize a non-public water supply system whose construction and use meet those standards set in the following circulars published by the department:

(i) Circular WQB-1 "Montana Department of Health and Environmental Sciences Standards for Water Works," 1992 edition; and

(ii) Circular WQB-3 "Montana Department of Health and Environmental Sciences Standards for Small Water Systems," 1992 edition.

(3) If a non-public water supply system is used in accordance with (2)(b) above, a day care center must:

(a) submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of water supplies in order to determine that the water does not exceed

(4) A day care center must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 17.38.207, as incorporated by reference in (1) of this rule, or nitrate or nitrite in excess of the maximum contaminant level stated in (3)(b) of this rule; or

(b) does not have the capacity to provide adequate water for drinking, cooking, personal hygiene, laundry, and water-carried waste disposal. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1121, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.226 SEWAGE SYSTEM (1) The department hereby adopts and incorporates by reference ARM Title 17, chapter 38, subchapter 1, which provides standards for on site subsurface wastewater treatment systems. A copy may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety, P.O. Box 202951, Helena, MT 59620-2951.

(2) In order to ensure sewage is completely and safely disposed of, a day care center must:

(a) connect to a public sewage system meeting the requirements of ARM Title 16, chapter 20, subchapter 4; or

(b) if the day care center is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including children, staff, and residents; and an adequate public sewage system is not available; utilize a non-public system whose construction and use meet the standards for such systems set by the local board of health and the construction and operation standards contained in ARM Title 17, chapter 38, subchapter 1, and incorporated by reference in (1) of this rule, with the proviso that the size of the system be determined using a rate of 20 gallons per day per child and per staff member attending the day care center, plus 75 gallons per day per resident.

(3) A day care center must replace or repair a failed system as defined by ARM 17.36.903(6) or the local health code. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1121, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)

37.95.227 SWIMMING POOLS (1) The department hereby adopts and incorporates by reference ARM Title 16, chapter 10, subchapter 15, setting construction and operation standards for swimming pools. A copy of ARM Title 16, chapter 10, subchapter 15 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Bureau, P.O. Box 202951, Helena, MT 59620-2951.

(2) In regard to swimming, a day care center must:

(a) allow children to use only a swimming pool which is constructed and operated in accordance with ARM Title 16, chapter 10, subchapter 15.

(b) in the event that a portable wading pool is used, add 1 to 3 ppm chlorine (1 tablespoon household bleach to 100 gallons of water) to the pool on the day of use; drain, clean, and refill it with fresh water daily, and refill it with fresh water when needed. Bleach must be added any time the pool is refilled and drained.

(c) provide and utilize each day the pool is used a chlorine test kit to ensure that the required chlorine residual is present in the pool at all times. (History: Sec. 52-2-735 and 53-4-506, MCA; IMP, Sec. 52-2-735 and 53-4-506, MCA; NEW, 1982 MAR p. 1117, Eff. 5/28/82; AMD, 1995 MAR p. 473, Eff. 3/31/95; TRANS, from DHES, 1998 MAR p. 2881.)